

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): **Alicia Marie Russell**

Title: **METHOD AND SYSTEM FOR FORWARDING WIRELESS  
COMMUNICATIONS**

App. No.: **10/668,617**

Filing Date: **September 23, 2003**

Examiner: **Charles Terrell Shedrick**

Group Art Unit: **2617**

Customer No.: **60533**

Confirmation No.: **1505**

Atty. Dkt. No.: **1033-SS00402**

---

**BOARD OF PATENT APPEALS  
AND INTERFERENCES**

United States Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REPLY BRIEF**

Jeffrey G. Toler, Reg. No. 38,342  
Attorney for Appellant  
TOLER LAW GROUP  
8500 Bluffstone Cove, Suite A201  
Austin, Texas 78759  
(512) 327-5515 (phone)  
(512) 327-5575 (fax)

## REMARKS

This Reply Brief is filed in reply to Examiner's Answer dated January 11, 2008. Appellant respectfully maintains that claims 1, 3, 4, 7-13, 15, 18-27 and 32-45 are allowable, as previously discussed in the Appeal Brief filed on September 26, 2007.

Various aspects of the Examiner's Answer are discussed below.

### A. CLAIM 36 IS ALLOWABLE OVER HOLLOWAY

Appellant traverses the rejection of claim 36 under 35 U.S.C. §102(b) as anticipated by U.S. Patent Publication No. 2003/0092451 ("Holloway") at page 4 of the Final Office Action and pages 3-4 and 23-25 of the Examiner's Answer. Appellant respectfully maintains that claim 36 is allowable, as previously discussed at pages 6-8 of the Appeal Brief.

The Examiner's Answer asserts that "a close inspection of claim 36 reveals that Appellant specifically claims an Apparatus (i.e., the wireless beacon)" and that "[t]he operation of the wireless mobile device selecting an alternate network etc. is noted as functional language." See Examiner's Answer, p. 23. Appellant respectfully submits that "a patent applicant is free to recite features of an apparatus either structurally or functionally." See *In re Schreiber*, 128 F.3d 1473, 44 USPQ2d 1429 (Fed. Cir. 1997), citing *In re Swinehart*, 439 F.2d 210, 212, 169 USPQ 226, 228 (CCPA 1971).

Appellant respectfully submits that the wireless communication interface is an element of the wireless beacon of claim 36. Therefore, in order for Holloway to anticipate claim 36, Holloway must disclose "a wireless communication interface configured to wirelessly transmit a unique identification of the wireless beacon to a wireless mobile device located within the wireless beacon coverage area." Further, the cited portions of Holloway fail to disclose that the unique identification enables a wireless mobile device to select an alternate network destination address corresponding to the unique identification, as in claim 36. As previously discussed at pages 6-8 of the Appeal Brief, claim 36 is allowable, because the cited portions of Holloway fail to disclose a wireless communication interface configured to wirelessly transmit a unique

identification that enables a wireless mobile device to select an alternate network destination address corresponding to the unique identification, as in claim 36.

**B. CLAIMS 1, 3-4, 7, 9-13, 15, 20-25, 39 AND 45 ARE ALLOWABLE OVER HOLLOWAY IN VIEW OF BARTLE**

Appellant traverses the rejection of claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent No. 6,188,888 (“Bartle”) at page 6 of the Final Office Action and pages 5-11 and 25-28 of the Examiner’s Answer.

As previously discussed at pages 9-12 of the Appeal Brief, claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45 are allowable, because the combination of the cited portions of Holloway and Bartle fail to disclose or suggest at least one feature of each of claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45.

Further, Appellant respectfully maintains that the Office has failed to establish a *prima facie* case of obviousness against claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45 because the asserted combination of Holloway and Bartle is improper. It is improper to combine references where the references teach away from their combination. *See* MPEP 2145, citing *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). The Examiner’s Answer fails to address Appellant’s arguments that both references teach away from their combination. Instead, the Examiner’s Answer only indicates that “Holloway is directed to forwarding calls to a preferred second phone” and that “Bartle is directed towards improved cellular phone providing call forwarding (see col. 2 lines 62-65).” *See* Examiner’s Answer, p. 28. Therefore, the Examiner’s Answer has failed to provide a *prima facie* case of obviousness against claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45.

As previously discussed at pages 12-14 of the Appeal Brief, the cited portions of Bartle describe a cellular telephone accessing a look up table, in response to a signal received from a charging unit, to retrieve a call forwarding number. *See* Bartle, col. 7, lines 50-55. The charging unit of Bartle is described as a docking station style charging unit. *See* Bartle, FIG. 3. Holloway

teaches away from the use of such devices in conjunction with call forwarding of cellular telephones, stating that “the user may forget to use the docking mechanism in his car until a call is received or may leave the phone in the docking mechanism when they exit the vehicle.” *See* Holloway, p. 1, ¶ [0005]. Therefore, there is no motivation to combine Holloway with Bartle at least because Holloway teaches away from the combination.

Additionally, Holloway indicates that when a mobile phone comes within the range of a transmitter, the mobile phone receives a transmitted signal. *See* Holloway, p. 2, ¶ [0017]. Bartle teaches away from the use of such systems stating:

Special hardware...may detect the presence of the mobile unit when within range of the special hardware (i.e. the mobile unit is at work or at home). The special hardware then notifies the wireless telephone system to forward all calls to the preprogrammed land line telephone at that location. Unfortunately, this solution requires a large investment by the user in the special hardware, as well as system infrastructure modifications, and works only if the mobile unit is within range of the special hardware.

*See* Bartle, col. 1, lines 39-50.

Therefore, there is no motivation to combine Holloway with Bartle, because Bartle also teaches away from the combination.

The Examiner’s Answer fails to address the lack of motivation to combine the references of Holloway and Bartle based on the references teaching away from the combination. Therefore, Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. For at least these reasons, the rejections of claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45 should be withdrawn, and claims 1, 3-4, 7, 9-13, 15, 20-25, 39 and 45 should be allowed.

**C. CLAIMS 32-35 AND 43 ARE ALLOWABLE OVER HOLLOWAY IN  
VIEW OF BARTLE AND WALDMAN**

Appellant traverses the rejection of claims 32-35 and 43 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent No. 6,188,888 (“Bartle”) and further in view of U.S. Patent No. 4,768,224 (“Waldman”) at page 12 of the Final Office Action and pages 11-15 and 28-29 of the Examiner’s Answer. Appellant respectfully maintains that claims 32-35 and 43 are allowable, as previously discussed at pages 14-15 of the Appeal Brief.

Claim 32 recites a call forward module including a table of alternate network addresses associated with recognized wireless beacon identifiers. None of the cited portions of the asserted references, alone or in combination, disclose or suggest this feature of claim 32. The Final Office Action states that “In an analogous art, Bartle teaches a table of alternate network addresses associated with recognized identifiers (i.e., binary logic signals) (i.e., see at least col. 7 lines 50-61).” *See* Final Office Action, p. 14. The Examiner’s Answer asserts that “Bartle teaches in at least col. 7 lines 50-61 that in response to the signals delivered across contacts 270, the CPU 298 may be programmed to **access a lookup table** or other appropriate memory location (e.g., **call forwarding memory** 26 of FIG. 1) to retrieve the call forwarding number that is associated with the particular switch position of the switch 252.” *See* Examiner’s Answer, p. 28 (Emphasis in original). However, as noted at pages 14-15 of the Appeal Brief, the look up table of Bartle is not a table of alternate network addresses associated with recognized wireless beacon identifiers, because the charging unit is not a wireless beacon. Furthermore, the binary number received from the charging unit does not identify the charging unit (and thus is not a beacon identifier). For example, in the system of Bartle, a compatible telephone placed in any charging unit whose switch position is set to 1 will forward calls to the telephone number associated with the number 1 position in the look up table of the cellular telephone. Thus, the number sent to the mobile phone is not an identifier of the charging unit. Additionally, the charging unit is not a wireless beacon, but rather relies on special pins to convey the binary value. Therefore, Appellant submits that the cited portions of Bartle fail to disclose or suggest a

call forward module including a table of alternate network addresses associated with recognized wireless beacon identifiers, as in claim 32.

In addition, the Examiner's Answer fails to address the lack of motivation to combine the references of Holloway and Bartle based on the references teaching away from the combination. Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. Therefore, the combination of Holloway, Bartle, and Waldman is also improper because Holloway and Bartle teach away from the combination. For at least this additional reason, claim 32 is allowable.

Claims 33-35 and 43, which depend from claim 32, are also allowable at least by virtue of their dependence from claim 32. Hence, the rejections of claims 32 -35 and 43 should be withdrawn, and claims 32-35 and 43 should be allowed.

**D. CLAIMS 8, 18-19 AND 38 ARE ALLOWABLE OVER HOLLOWAY IN VIEW OF BARTLE AND "WELL KNOWN PRIOR ART"**

Appellant traverses the rejection of claims 8, 18-19 and 38 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0092451 ("Holloway") in view of U.S. Patent No. 6,188,888 ("Bartle") and further in view of "well known prior art" at page 16 of the Final Office Action and pages 15-18 and 29 of the Examiner's Answer. Claim 16 was canceled in an amendment filed February 19, 2007; therefore, the rejection of claim 16 is moot. Appellant respectfully maintains that claims 8, 18-19 and 38 are allowable, as previously discussed at pages 15-16 of the Appeal Brief.

In addition, the Examiner's Answer fails to address the lack of motivation to combine the references of Holloway and Bartle based on the references teaching away from the combination. Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. Therefore, the combination of Holloway, Bartle, and "well known prior art" is also improper because Holloway and Bartle teach away from the combination. For at least this additional reason, claims 8, 18-19 and 38 are allowable.

**E. CLAIM 40 IS ALLOWABLE OVER HOLLOWAY IN VIEW OF BARTLE, WALDMAN AND “WELL KNOWN PRIOR ART”**

Appellant traverses the rejection of claim 40 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent No. 6,188,888 (“Bartle”) further in view of U.S. Patent No. 4,768,224 (“Waldman”) and further in view of “well known prior art” at page 19 of the Final Office Action and pages 18-19 and 29 of the Examiner’s Answer. Appellant respectfully maintains that claim 40 is allowable, as previously discussed at pages 16-17 of the Appeal Brief.

In addition, the Examiner’s Answer fails to address the lack of motivation to combine the references of Holloway and Bartle since the references teach away from the combination. Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. Therefore, the combination of Holloway, Bartle, Waldman and “well known prior art” is also improper because Holloway and Bartle teach away from the combination. For at least this additional reason, claim 40 is allowable.

**F. CLAIM 26 IS ALLOWABLE OVER HOLLOWAY IN VIEW OF BARTLE AND BOSIK**

Appellant traverses the rejection of claim 26 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent No. 6,188,888 (“Bartle”), and further in view of U.S. Patent No. 6,856,806 (“Bosik”) at page 20 of the Final Office Action and pages 19 and 29-30 of the Examiner’s Answer. Appellant respectfully maintains that claim 26 is allowable, as previously discussed at page 17 of the Appeal Brief.

In addition, the Examiner’s Answer fails to address the lack of motivation to combine the references of Holloway and Bartle based on the references teaching away from the combination. Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. Therefore, the combination of Holloway, Bartle, and Bosik is also improper because Holloway and Bartle teach away from the combination. For at least this additional reason, claim 26 is allowable.

**G. CLAIM 37 IS ALLOWABLE OVER HOLLOWAY IN VIEW OF CHOW**

Appellant traverses the rejection of claim 37 under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent Publication No. 2003/009451 (“Chow”) at page 21 of the Final Office Action and pages 19-20 and 30 of the Examiner’s Answer. Appellant respectfully maintains that claim 37 is allowable, as previously discussed at page 18 of the Appeal Brief.

**H. CLAIM 27 IS ALLOWABLE OVER HOLLOWAY IN VIEW OF BARTLE AND MORI**

Appellant traverses the rejection of claim 27 under U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent No. 6,188,888 (“Bartle”), and further in view of U.S. Patent No. 6,609,006 (“Mori”) at page 22 of the Final Office Action and pages 20-21 and 30-32 of the Examiner’s Answer. Appellant respectfully maintains that claim 27 is allowable, as previously discussed at pages 18-20 of the Appeal Brief.

In addition, the Examiner’s Answer fails to address the lack of motivation to combine the references of Holloway and Bartle based on the references teaching away from the combination. Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. Therefore, the combination of Holloway, Bartle, and Mori is also improper because Holloway and Bartle teach away from the combination. For at least this additional reason, claim 27 is allowable.

**I. CLAIMS 41-42 ARE ALLOWABLE OVER HOLLOWAY IN VIEW OF BARTLE, WALDMAN AND “ADMITTED PRIOR ART”**

Appellant traverses the rejection of claims 41-42 under §103(a) over U.S. Patent Publication No. 2003/0092451 (“Holloway”) in view of U.S. Patent No. 6,188,888 (“Bartle”), further in view of U.S. Patent No. 4,768,224 (“Waldman”), and further in view of “Admitted Prior Art” at page 23 of the Final Office Action and pages 21-22 and 32 of the Examiner’s



Answer. Appellant respectfully maintains that claims 41-42 are allowable, as previously discussed at pages 20-21 of the Appeal Brief.

In addition, the Examiner's Answer fails to address the lack of motivation to combine the references of Holloway and Bartle based on the references teaching away from the combination. Appellant respectfully maintains that the asserted combination of Holloway and Bartle is improper. Therefore, the combination of Holloway, Bartle, Waldman and "Admitted Prior Art" is also improper because Holloway and Bartle teach away from the combination. For at least this additional reason, claims 41-42 are allowable.

**J. CLAIM 44 IS ALLOWABLE OVER HOLLOWAY IN VIEW OF  
"ADMITTED PRIOR ART"**

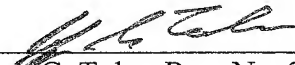
Appellant traverses the rejection of claim 44 under §103(a) over U.S. Patent Publication No. 2003/0092451 ("Holloway") in view of "Admitted Prior Art" at page 24 of the Final Office Action and pages 22-23 and 32 of the Examiner's Answer. Appellant respectfully maintains that claim 44 is allowable, as previously discussed at pages 21-22 of the Appeal Brief.

**CONCLUSION**

For at least the above reasons, all pending claims are allowable and a notice of allowance is courteously solicited. Appellant respectfully requests reconsideration and allowance of all claims and that this patent application be passed to issue.

Respectfully submitted,

3 - 7 - 2008  
Date

  
Jeffrey G. Toler; Reg. No. 38,342  
Attorney for Appellant  
TOLER LAW GROUP  
8500 Bluffstone Cove, Suite A201  
Austin, Texas 78759  
(512) 327-5515 (phone)  
(512) 327-5575 (fax)